

The Electricity Excise Tax Law became effective August 1, 1998. This tax is imposed upon the privilege of using in this State electricity purchased for use or consumption and not for resale, other than by municipal corporations owning and operating a local transportation system for public service. See, 35 ILCS 640/1 et seq. (This is a GIL.)

December 8, 1998

Dear Mr. Xxxxx:

This letter is in response to your letter dated September 30, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Your name was given to me by the miscellaneous taxes section of your department as the attorney to contact for a question the city of CITY has concerning the new Electricity Excise Tax that replaced the old IPU and ICC taxes on electrical usage.

The city of CITY has always received its monthly bill from COMPANY under our franchise agreement covering municipal street lighting under Rate 11 of the Illinois Commerce Commission. Those bills had the ICC 0.1% tax applied but as a municipality under that rate we did not have the 5% IPU tax applied for that specific invoice.

The city of CITY has received the latest COMPANY street light invoice with the new sliding scale tax applied. The tax as now calculated has increased from \$19 a month to \$960 a month. A very substantial increase.

I realize the stipulations in the new legislation will be the deciding factor in our question of is the city of CITY as a municipality exempt from the payment of this tax? If the city of CITY possibly decides to adopt the new municipal utility tax/infrastructure maintenance fee would we be subject to our own tax rate?

Your help in clarifying this matter would be greatly appreciated. As a city this extra \$12,000 a year hit is going to require a budget modification.

The city of CITY also has many other accounts with COMPANY such as City Hall, the water and sewer plants and many fire stations. A ruling on these accounts would also be greatly appreciated.

I can be reached at City Hall. My fax number is ####. I am sure COMPANY would like their bill paid as quickly as possible but I am respectfully holding it on my desk until I hear back from you.

Thanks so much for any help you can provide.

The Electricity Excise Tax Law became effective August 1, 1998. This tax is imposed upon the privilege of using in this State electricity purchased for use or consumption and not for resale, other than by municipal corporations owning and operating a local transportation system for public service. The incidence of this tax is on the consumers of electricity.

The definition of "person" in the Electricity Excise Tax Law sets out the types of purchasers that are subject to liability under that Law. "Person" includes "any natural individual, firm, trust, estate, partnership, association, . . . or any city, town, village, county, or other political subdivision of this State." 35 ILCS 640/2-3. The statutory provisions are clear that the Electricity Excise Tax Law applies to municipalities, except for electricity used by municipal corporations owning and operating local transportation systems for public service. See, 35 ILCS 640/2-3(a).

The Illinois Department of Revenue cannot provide you with interpretations of laws that it does not administer, such as the Electricity Infrastructure Maintenance Fee Law. Please note that the imposition of such a fee by a municipality would have no impact on any liabilities incurred by that municipality under the Electricity Excise Tax Law.

I hope this information is helpful. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Encl.